

# STATE OF COLORADO

Bill Ritter, Jr., Governor  
James B. Martin, Executive Director

Dedicated to protecting and improving the health and environment of the people of Colorado

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Colorado Department  
of Public Health  
and Environment

February 25, 2009

Certified Mail Number: 7007 0220 0001 0160 5986

PWSID# CO-0263299  
Central Plains Farms LLC (Gaytan Water System)  
The Corporation Company  
1675 Broadway, Ste 1200  
Denver, CO 80202

**RE: Service of Drinking Water Enforcement Order, Number: DN-090225-1**

Dear Sir or Madam:

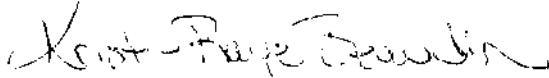
Central Plains Farms LLC is hereby issued the enclosed Enforcement Order (the "Order"). This Order is issued by the Colorado Department of Public Health and Environment, Water Quality Control Division (the "Department") pursuant to the authority given to the Department by §25-1.5-203 of the Colorado Revised Statutes ("C.R.S."). The Department bases this Order upon findings that Central Plains Farms LLC violated the *Colorado Primary Drinking Water Regulations* (the "Regulations") as described in the enclosed Order.

As a recipient of an enforcement order Central Plains Farms LLC may request a formal hearing to contest the Order in accordance with the Regulations, 5 CCR 1003-1, §1.6.7(g). Requests for such a hearing must be filed in writing with the Department within thirty (30) calendar days after service of the Order. Hearings on enforcement orders shall be held in accordance with applicable provisions of the State Administrative Procedure Act, §§24-4-101 through 24-4-108, C.R.S.

This action could result in the imposition of administrative or civil penalties. The Department or a State District Court is authorized pursuant to §25-1-114.1, C.R.S. to impose a penalty of up to \$1,000 per violation per day. Please be advised that the Department is continuing its investigation into this matter and the Department may identify supplementary violations that warrant amendments to this Order or the issuance of additional enforcement actions.

Should Central Plains Farms LLC desire to informally discuss this matter with the Department or if Central Plains Farms LLC has any questions regarding the Order, please don't hesitate to contact Scott Klarich at (303) 692-3564 or by electronic mail at [scott.klarich@state.co.us](mailto:scott.klarich@state.co.us).

Sincerely,



Kristi-Ray Beaudin, Legal Assistant  
Compliance Assurance and Data Management Section  
WATER QUALITY CONTROL DIVISION

Enclosure

cc: Northeast Colorado Health Department  
Compliance Monitor / Drinking Water File

ec: David Kurz, Engineering Section, CDPHE  
Dick Parachini, Watershed Program, CDPHE  
Betsy Beaver, Facility Operators Program, CDPHE  
Shawn McCaffrey, EPA Region VIII  
Jeff Lawrence, Director Consumer Protection Division, CDPHE  
Carolyn Schachterle, OPA



**COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT**  
**WATER QUALITY CONTROL DIVISION**

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**ENFORCEMENT ORDER**

**NUMBER: DN-090225-1**

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**IN THE MATTER OF: CENTRAL PLAINS FARMS, LLC**  
**SYSTEM NAME: GAYTAN WATER SYSTEM**  
**PUBLIC WATER SYSTEM IDENTIFICATION NUMBER: CO-0263299**  
**YUMA COUNTY, COLORADO**

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Pursuant to the authority vested in the Colorado Department of Public Health and Environment (the "Department") by §25-1-109 and §25-1.5-203 of the Colorado Revised Statutes ("C.R.S."), which authority has been delegated to the Department's Water Quality Control Division (the "Division"), the Division hereby makes the following findings and issues the following Enforcement Order:

**GENERAL FINDINGS**

1. Central Plains Farms, LLC owns and/or operates a drinking water system known as Gaytan Water System, located near the Town of Yuma, Yuma County, Colorado (the "System").
2. Central Plains Farms, LLC is a person as defined by 5 CCR 1003-1, §1.5.2(98).
3. Central Plains Farms, LLC is a supplier of water within the meaning of §25-1.5-201(2), C.R.S. and its implementing regulation, 5 CCR 1003-1, §1.5.2(128).
4. The System is a public water system as defined by §25-1.5-201(1), C.R.S. and its implementing regulation, 5 CCR 1003-1, §1.5.2(107).
5. The Public Water System Identification Number ("PWSID"), assigned to the System by the Division is PWSID #: CO-0263299.
6. Pursuant to 5 CCR 1003-1, §1.2, the System is subject to the *Colorado Primary Drinking Water Regulations* (the "Regulations"), which were adopted pursuant to §25-1.5-203, C.R.S.
7. Central Plains Farms, LLC provides piped water for human consumption from the System to at least twenty-five (25) of the same persons over six (6) months per year. The System is therefore classified as a "non-transient, non-community water system" as defined by 5 CCR 1003-1, §1.5.2(94).

8. The System's source of water is groundwater as defined by 5 CCR 1003-1, §1.5.2(63).

**First Violation**  
**(Failure to Provide Treatment of a Public Water Supply)**

9. Pursuant to 5 CCR 1003-1, §7.9.1(b), the System is required to provide Department approved disinfection that is effective in the killing or removal of pathogenic organisms. Disinfection may include physical as well as chemical treatment. When chlorination methods are employed, a sufficient amount of chlorine shall be added to the water to destroy any pathogenic organisms potentially present and to maintain a detectable residual in at least 95% of the samples taken at the extremities of the distribution system from which water may be withdrawn.
10. On March 19, 2007, the Division issued the System a Bottled Water Order as a measure to protect public health as a result of positive microbiological sample results and the lack of Division approved disinfection treatment. Pursuant to the Bottled Water Order, the System was required to submit plans and specification regarding the System's source and treatment components.
11. From approximately March 2007 through December 2008, the System submitted various documents in regards to the System's design plans and specifications and Division identified deficiencies with such submittals.
12. On December 23, 2008, the Division conditionally approved the submitted design plans and specifications for the System's disinfection treatment.
13. Department records to-date establishes that the System has not constructed or installed the Division approved disinfection treatment.
14. Central Plains Farms, LLC 's failure to provide approved disinfection treatment and to maintain a detectable disinfectant residual in the System's distributed water constitutes violation(s) of 5 CCR 1003-1, §7.9.1(b).

**Second Violation**  
**(Exceedance of the Maximum Contaminant Levels**  
**for Microbiological Contaminants)**

15. Pursuant to 5 CCR 1003-1, §5.7(a), the maximum contaminant level for microbiological contaminants is based on the presence or absence of total coliforms in a sample, rather than coliform density.
16. Pursuant to 5 CCR 1003-1, §5.1.1(a), the System must collect total coliform samples at sites that are representative of water throughout the distribution system, according to a written sample-siting plan.
17. Pursuant to 5 CCR 1003-1, §1.6.2 and as a result of the System's lack of disinfection treatment, the System is required to collect one bacteriological sample per month from each distribution system.

18. Pursuant to 5 CCR 1003-1, §5.1.1(b), the System is required to submit the results of all routine total coliform sampling and analyses to the Department for review.
19. Division records establish that the System reported maximum contaminant levels for total coliform and E. coli positive results for the following sample dates:

Sample Month/Year	Number of Positive Total Coliform Sample(s)	Number of Positive E. coli Sample(s)
October 2008	3	0
June 2008	2	0
September 2007	1	0
August 2007	5	0
July 2007	4	2
March 2007	1	0
January 2007	2	0

20. Pursuant to 5 CCR 1003-1, §2.3 and §5.7(a)(2), the System, which collects fewer than 40 total coliform samples per month, exceeds the maximum contaminant level for microbiological contaminants if more than one sample collected during a month is total coliform-positive.
21. Central Plains Farms, LLC 's failure to maintain compliance with the maximum contaminant levels for microbiological contaminants during the above described monitoring periods constitutes violation(s) of 5 CCR 1003-1, §2.3 and §5.7(a).

### **COMPLIANCE ORDER**

Based upon the foregoing factual and legal determinations and pursuant to 5 CCR 1003-1, §1.6.7, Central Plains Farms, LLC is hereby ordered to:

22. Immediately comply with the *Colorado Primary Drinking Water Regulations*, 5 CCR 1003-1, Articles 1 through 13.

Further, the Division hereby orders Central Plains Farms, LLC to comply with the following specific terms and conditions of this Order.

23. In order to ensure long-term compliance with the *Colorado Primary Drinking Water Regulations*, specifically including the groundwater disinfection treatment requirements (Article 7) and the maximum contaminant levels for microbiological contaminants (Article 2 and 5) for public water supplies, Central Plains Farms, LLC shall complete its proposed System improvements in accordance with the following schedule:
- a. By May 1, 2009, complete construction/implementation of the Department approved System improvements to ensure long-term compliance with the groundwater disinfection treatment requirements and the maximum contaminant levels for microbiological contaminants.

- b. By June 1, 2009, submit a written certification from the design firm (or person) stating that the System improvements were constructed/installed as approved by the Department.
24. By May 1, 2009, submit documentation to the Department verifying that the System is under the responsible charge of a properly classified and certified Operator in Responsible Charge. Department records establish that the System should be, at a minimum, under the responsible control of at least a Class "S" water treatment plant operator.
25. Consistent with the terms of the March 19, 2007 Bottled Water Order, Central Plains Farms, LLC shall provide a continuous posting of its public notice (bottled water advisory) and submit to the Division its Certification of Delivery form every two (2) weeks in accordance with 5 CCR 1003-1, §9.2 until the Division has acknowledged in writing that the System is consistently distributing safe water and lifted the Bottled Water Order.

### **NOTICES AND SUBMITTALS**

For all documents, plans, records, reports and replies required to be submitted by this order, Central Plains Farms, LLC shall submit an original and one copy (electronic is preferred) to the Division at the following address:

Colorado Department of Public Health and Environment  
Water Quality Control Division / WQCD-WQP-B2  
Compliance Assurance and Data Management Section  
Attention: Scott Klarich  
4300 Cherry Creek Drive South  
Denver, Colorado 80246-1530  
Email: [scott.klarich@state.co.us](mailto:scott.klarich@state.co.us)  
Fax: (303) 782-0390

*(For any facsimile transmittals, please include a cover sheet addressed to Mr. Klarich.)*

Pursuant to 5 CCR 1003-1, §1.6.4(e), all reports, notices, summaries, and certifications required to be submitted to the Department by the public water system must bear the original signature of the owner or the owner's authorized representative.

### **NOTICE OF COMPLETION**

Central Plains Farms, LLC shall submit a Notice of Completion to the Division upon satisfactory completion of all requirements of this Enforcement Order. The Division shall either accept or reject the Notice of Completion in writing. If the Division rejects the Notice of Completion, it shall include in its notice a statement identifying the requirements that the Division considers incomplete or not satisfactorily performed and a schedule for completion. If Central Plains Farms, LLC wishes to dispute the Division's rejection of its Notice of Completion, it shall, within fifteen (15) calendar days of receipt of the Division's rejection, submit a

written statement as to its belief of full compliance, addressing in detail all concerns the Division raised in the rejection letter to the System's Notice of Completion.

### **PRIOR APPROVAL REQUIRED**

Pursuant to 5 CCR 1003-1, §1.11.2, no person shall commence construction of any new waterworks, or make improvements to or modify the treatment process of an existing waterworks, or initiate use of a new source, until plans and specifications for such construction, improvements, modifications or use have been submitted to, and approved by the Department. The Department shall grant such approval when it finds that the proposed facilities are capable of complying, on a continuous basis, with all applicable laws, standards, rules and regulations.

### **POTENTIAL ADMINISTRATIVE/CIVIL AND CRIMINAL PENALTIES**

You are also advised, pursuant to §25-1-114.1, C.R.S., that violators of the Regulations or final Enforcement Orders issued by the Department are subject to civil or administrative penalties of up to one thousand dollars (\$1,000) per violation per day, to be imposed by the Department or a State District Court. Further, pursuant to §25-1-114(4), C.R.S., any person, association, or corporation, or the officers thereof, who violates, disobeys, or disregards any provision of the Regulations or an Enforcement Order is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than one thousand dollars (\$1,000), or by imprisonment in the county jail for not more than one (1) year, or by both such fine and imprisonment and, in addition to such fine and imprisonment, shall be liable for any expense incurred by health authorities in removing any nuisance, source of filth, or cause of sickness. By virtue of issuing this Enforcement Order, the Department has not waived its right to bring an action for administrative, civil or criminal penalties and may bring such action in the future.

### **REQUEST FOR HEARING OR APPEAL**

You are further advised, pursuant to 5 CCR 1003-1, §1.6.7(g), that a recipient of an Enforcement Order may request a hearing contesting such order. Requests for such a hearing shall be filed in writing with the Department within thirty (30) calendar days after service of the order. Such requests shall state the grounds upon which the order is contested and state the amount of time the recipient estimates will be required for the hearing. Hearings on Enforcement Orders shall be held in accordance with applicable provisions of the State Administrative Procedure Act, Article 4 of Title 24, C.R.S.

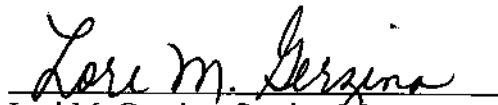
### **ADDITIONAL ACTION**

You are further advised that under §25-1-114.1(1), C.R.S., the Department may institute a civil action against any person who violates a final Enforcement Order of the Department issued for violation of any minimum general sanitary standard or regulation adopted pursuant to §25-1.5-203, C.R.S.

Additionally, the Department may request the Attorney General to seek a temporary restraining order or permanent injunction to prevent or abate any violation of a minimum general sanitary standard or regulation adopted pursuant to §25-1.5-203, C.R.S. Further information concerning the aforementioned action is contained in §25-1-114.1(3), C.R.S.

Issued at Denver, Colorado, this 25<sup>th</sup> day of February, 2009.

**FOR THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT**

A handwritten signature in cursive script, reading "Lori M. Gerzina", is written over a horizontal line.

Lori M. Gerzina, Section Manager  
Compliance Assurance and Data Management Section  
Water Quality Control Division